

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

EDDIE WISE, on Behalf of Himself  
and Others Similarly Situated,

05-Civ.-5442 (SAS)

Plaintiff,

**NOTICE OF MOTION  
TO DISMISS**

-against-

RAYMOND W. KELLY, et al.,

Defendants.

-----X

**PLEASE TAKE NOTICE** that upon the annexed Declaration of of Monica Connell, dated August 19, 2005, the exhibits annexed thereto, the accompanying Memorandum of Law dated August 19, 2005, and all the pleadings and proceedings had herein, the undersigned will move this Court, before the Honorable Shira A. Scheindlin, by submission, on September 30, 2005, at the United States Courthouse for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, for an Order dismissing the Complaint.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 6.1 of the Local Civil Rules for the Southern and Eastern Districts of New York and the Individual Practices of the Hon. Shira A. Scheindlin, answering papers, if any, are due ten days after service of this motion or at any other time agreed to by the parties prior to the return date of the motion.

Dated: New York, New York  
August 19, 2005

Respectfully submitted,

ELIOT SPITZER  
Attorney General of the  
State of New York  
Attorney for the State Defendants

By:

A handwritten signature in black ink, appearing to read 'Monica Connell', is written over a horizontal line.

MONICA CONNELL (MC 9841)  
Assistant Attorney General  
120 Broadway - 24th Floor  
New York, New York 10271  
(212) 416-8965

To: Katherine Rosenfeld, Esq.  
Matthew D. Brinckerhoff, Esq.  
EMERY CELLI BRINCKERHOFF & ABADY LLP  
Counsel for the Plaintiff  
545 Madison Avenue  
New York, New York 10022  
(212) 763-5000

J. McGregor Smyth, Jr.  
THE BRONX DEFENDERS  
Counsel for the Plaintiff  
860 Courtlandt Avenue  
Bronx, New York 10451  
(718) 838-7885

Rachel Seligman, Esq.  
Assistant Corporation Counsel  
OFFICE OF THE CORPORATION COUNSEL  
Counsel for the City Defendants  
100 Church Street  
New York, New York 10007  
(212) 788-0784